

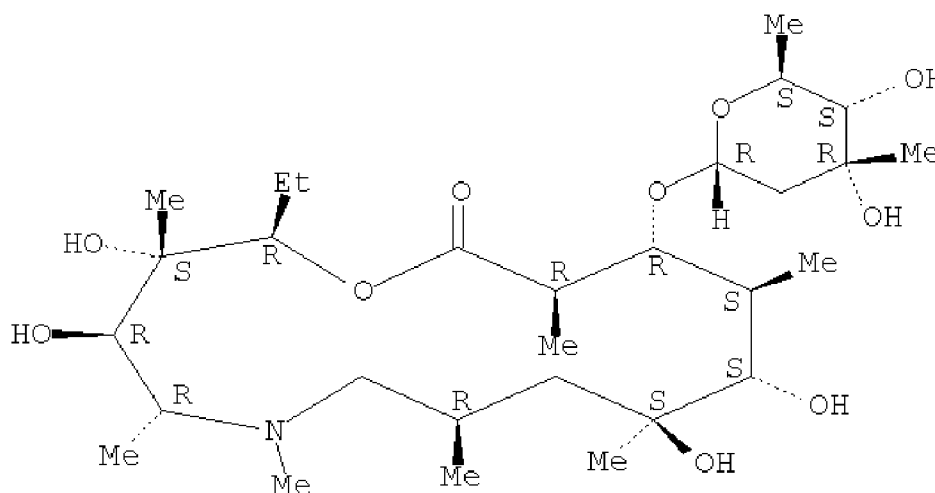
## **REMARKS**

Currently, claims 21, 27, 28, and 31-60 are pending. Applicants appreciate the indication that claims 37-60 contain allowable subject matter and would be patentable if written in independent form.

Applicants address the rejection of claims 21, 27, 28, and 31-36 below.

### **I. Section 102(b) Rejection Overcome**

Claims 21, 27, 28, and 31-36 remain rejected under 35 U.S.C. §102(b) as being anticipated by EP 1 024 145 (O'Connell). The Action states that O'Connell teaches 5-O-mycaminosyl azithromycin derivatives [Examples 14-17], particularly the following compound:



and further states that this compound anticipates the rejected claims wherein R1 is Et, R2 and R3 are Me and OH, R4 is Me, R5 is Me, R6 is Me, R7 is Me, R8 is the above sugar wherein R10 is H, R9 is Me, R13 is H, R14 is H and R15 is H. Applicants respectfully traverse this rejection.

Examples 14-17 cited by the Action describe preparation of the following compounds:

5-O-mycaminosyl-azithromycin [Example 14] using azithromycin aglycone as a starting material;

3''-desmethyl-azithromycin [Example 15] using azithromycin aglycone as a starting material;

3''-desmethyl-5-O-mycaminosyl-azithromycin [Example 16] using azithromycin aglycone as a starting material; and

5-O-mycaminosyl-N-desmethyl-azithromycin [Example 17] using N-desmethyl-azithromycin as a starting material.

Azithromycin has the following structure:



The azithromycin aglycone starting material for Examples 14-16 is simply azithromycin as shown above with both of the sugar moieties removed. The desmethyl-azithromycin aglycone starting material for Example 17 is simply azithromycin aglycone as just described with the methyl group removed from the nitrogen in the macrolide ring.

None of the starting materials for Examples 14-17 or the compounds prepared in Examples 14-17 and listed above anticipate the compounds recited in claim 1 as asserted by the Action. For example, the Action asserts that the compounds of Examples 14-17 in the O'Connell reference anticipates the claimed compounds when R<sup>15</sup> is hydrogen. This assertion is inaccurate. When the claims of the present application recite compounds wherein R<sup>15</sup> is H, the compounds of the genus have a single sugar moiety. It is clear from the description of O'Connell above, however, that the azithromycin aglycone starting materials for each of Examples 14-17 have no sugar moieties while the compounds prepared in Examples 14-17 have two sugar moieties. None of the compounds of Examples 14-17 fall within the genus of claimed compounds.

For at least the foregoing reasons, Applicants respectfully submit that claims 21, 27, 28, and 31-36 are not anticipated by O'Connell under 35 U.S.C. §102(b) and respectfully request that this rejection be withdrawn.

## **II. Conclusion**

All claim rejections being addressed in full, Applicants respectfully request the withdrawal of the outstanding objections and rejections and the issuance of a Notice of Allowance. Should the Examiner have any questions regarding the foregoing, Applicants respectfully request that the Examiner contact the undersigned, who can be reached at (919) 483-9024.

Respectfully submitted,

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